

REMARKS/ARGUMENTS

Reconsideration is requested. Claims 1-13 are currently pending with claims 7-9 being withdrawn from consideration. Responsive to the Office Action of February 2, 2006, the Examiner's comments and the cited art have been noted and studied. For reasons to be set forth in detail below, it is respectfully submitted that the present application is in condition for allowance, and such action is requested.

The specification has been amended to delete the use of element numeral 210 in paragraph 0024 and to insert the relevant Patent Application Publication No. in paragraph 0032.

Independent claims 1 and 11 have been amended to more clearly recite that the pressure tip creates the recited target site bulge "upon being urged toward the target site" (see, for example, the "urging" step of original claim 11; and paragraphs 0021 and 0029 of the current disclosure).

Independent claims 1 and 11 have also been amended to recite that the trigger mechanism detects a target site bulge of a predetermined height that has been "created by the urging of the pressure tip against the target site" (see, for example, paragraph 0038 of the current disclosure).

It is respectfully submitted that the amendments above are supported by the specification, claims, abstract of the disclosure, and drawings as originally filed, and that no new matter has been added.

Restriction Requirement

Applicant affirms the election of claims 1-6 and 10-13 as provisionally made during the telephone conversation on January 12, 2006.

Objections to the Specification

An objection to the specification was made based on portion 210 not being shown in FIG. 2. The specification, as amended, no longer employs element numeral 210. Applicant submits that one of skill in the art will readily understand, even in the absence of element numeral 210, the description of FIG.2 contained in paragraph 0024 related to a portion of pressure tip 16 that is retained in the housing and a portion that extends from the end of the

housing. Applicant, therefore, submits that the specification is no longer subject to objection with respect to FIG. 2 and the previously noted portion 210.

An objection to the specification in the Office Action was based on the U.S. Patent Application referred to in paragraph 0032 not being disclosed. Applicant notes that the specification, as currently amended, now describes the relevant U.S. Patent Application (previously identified by filing date and Attorney's Docket Number) as U.S. "Patent Application Publication No. 2005/0085839." Therefore, Applicant submits that disclosure of the relevant U.S. Patent Application is not a basis for an objection to the specification.

Claim Rejections under 35 U.S.C. §102

The subject matter of claims 1, 2, 5, and 10-13 was rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Application Publication No. 2004/0215224 to Sakata et al. (hereinafter "Sakata").

Sakata, as understood, describes a lancing apparatus that employs a pump to create a negative pressure within the lancing device. This negative pressure creates a skin bulge that comes into contact with an analysis sensor held by a sensor holder (see, for example, paragraphs 0081 and 0111 of Sakata). The skin bulge pushes against the analysis sensor until a predetermined analysis sensor angle (inclination) is achieved, at which point further change in the sensor angle is restrained (see, for example, paragraphs 0110 and 0111 and FIG. 19 of Sakata). Therefore, the lancing apparatus of Sakata relies on negative pressure created by a pump to create a skin bulge and is configured to restrain an analysis sensor at a predetermined angle while in contact with a skin bulge.

In contrast to Sakata, the subject matter of amended independent claims 1 and 11 includes a pressure tip that creates "the target site bulge upon being urged toward the target site" and a trigger mechanism that detects a "target site bulge of a predetermined height created by the urging of the pressure tip against the target site." Therefore, the presently claimed subject matter is distinguished over Sakata in that the presently claimed subject matter employs a pressure tip to create the target site bulge, not reduced pressure created by a pump.

In further contrast to Sakata, independent claims 1 and 11 each recite that "preventing subsequent change in target site bulge location *relative to said housing*" (emphasis added) is

achieved by the trigger mechanism. While Sakata teaches restraint of the angle between a skin bulge and an analysis sensor, Sakata does not describe, teach or suggest complete restraint with respect to a housing (see, for example, paragraph 0110 and FIG. 19 of Sakata). In this regard, Applicant notes that springs 83 and 74 shown in FIG. 19 of Sakata permit various types of movement, even when the analysis sensor angle is restrained.

For at least the foregoing reasons, Applicant respectfully submits that independent claims 1 and 11, as amended, are not anticipated or obvious over Sakata. Since dependent claims 2, 5, 10, 12 and 13 depend from and further limit their respective independent claims, they are allowable for at least the same reasons.

Claim Rejections under 35 U.S.C. §103

The subject matter of dependent claims 3 and 4 was rejected under 35 U.S.C. §103(a) as obvious over Sakata in view of U.S. Patent No. 6,589,260 to Schmelzeisen-Redeker et al. (hereinafter “Schmelzeisen-Redeker”).

Schmelzeisen-Redeker appears to describe an integrated system for skin perforation and subsequent blood withdrawal (see, for example, col. 7, lines 37-39 of Schmelzeisen-Redeker). Schmelzeisen-Redeker was cited in the Office Action for teachings related to spring force of a compression unit adjustable spring. However, Schmelzeisen-Redeker does not cure the deficiencies of Sakata described above. For at least this reason, Applicant respectfully submits that dependent claims 3 and 4 are not obvious over the cited combination of Sakata and Schmelzeisen-Redeker and are allowable under 35 U.S.C. §103.

The subject matter of dependent claim 6 was rejected under 35 U.S.C. §103(a) as obvious over Sakata in view of U.S. Patent Publication No. 2005/0038465 to Shraga (hereinafter “Shraga”).

Shraga, as understood, describes a system for maintaining a depth setting that includes an undulating ratchet surface and a groove (see, for example, paragraph 0124 of Shraga) and was cited in the Office Action for teachings related to ratchet teeth. However, Shraga does not cure the deficiencies of Sakata described above. For at least this reason, Applicant respectfully submits that dependent claim 6 is not obvious over the cited combination of Sakata and Shraga and is allowable under 35 U.S.C. §103.

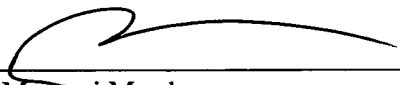
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and applicants earnestly solicit early examination on the merits and issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowed, he is urged to contact the undersigned Attorney via telephone at 408 956-4790, or facsimile number 408 956-4404.

The Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment to Deposit Account No. 10-0750 (Docket No. LFS-5016USNP/MM) (Johnson & Johnson).

Respectfully submitted,

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By: 
Mayumi Maeda
Reg. No. 40,075

Johnson & Johnson
International Patent Law Division
Attn: Philip Johnson
P.O. Box 1222
New Brunswick, NJ 08903
(408) 956-4790